



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

JRE

Docket No: 4377-99

22 February 2000

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 14 October 1998. It appears that your enlistment was fraudulent, in that you did not disclose your history of a back condition which may have disqualified you from enlisting. A medical record entry dated 28 January 1999 indicates that you had been suffering from low back pain since boot camp, but you denied any recent history of trauma to the back. You revealed that you had been treated for low back pain secondary to a football injury prior to enlisting. The following day you admitted that you had been diagnosed with spondylolisthesis before enlisting. An entry dated 27 January 1999, indicates you had experienced low back pain intermittently since the 9th grade. On the basis of that history and physical findings, you were recommended for discharge by reason of a condition, not a disability, interfering with your performance of duty. You were advised of your rights in connection with that proposed action on 29 March 1999, and you were separated from the Marine Corps on 23 April 1999 with an entry level separation.

The Board was not persuaded that you were unfit for duty because of a physical disability

which was incurred in or aggravated by your brief period of service in the Marine Corps. Accordingly, it was unable to recommend that your record be corrected to show that you were separated or retired by reason of physical disability.

With regard to your request for an honorable discharge, the Board noted that as the discharge process was initiated prior to your completion of 180 days of continuous active duty, you were not entitled to a characterized separation, and the entry level separation you received was proper.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director